

**FULL NOTICE TO PROPOSERS  
ENERGY PERFORMANCE CONTRACTING SERVICES  
Universal Robina Corporation, Manila, Philippines**

***ROSARIO AGRO-PROCESSING COMPLEX***

**REQUEST FOR PROPOSALS**

**AND**

**RESPONSE FORMS**

***Submission Deadline: August 31, 2000***

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## **ABBREVIATED NOTICE TO PROPOSERS**

SEALED PROPOSAL will be received on or before 4:30 P.M., August 31, 2000 in **Corporate Engineering and Maintenance Department, Universal Robina Corporation, CFC Administration Bldg., E. Rodriguez Jr. Avenue, Bagong Ilog, Pasig City, Metro Manila, Philippines,** for the following:

**REQUEST FOR PROPOSAL NO. 2000-1 : PROVIDE ENERGY PERFORMANCE CONTRACTING SERVICES FOR Universal Robina Corporation (URC) - Rosario Plant, Marikina Road, Rosario, Pasig City, Metro Manila, Philippines.**

The Rosario Plant is a food manufacturing complex that produces coffee, chocolate, tomato paste, snacks, and other goods and is engaged in the packaging of canned goods. There are three production lines that operate at the Rosario Plant – the Chocolate Plant, Tetrapak Plant, and the Coffee Plant. Electricity consumption at the complex is approximately 8-10 million kWh per year. There is potential for new (e.g., absorption chillers, re-lamping, automatic roasters) and other energy efficiency technologies. **URC**, a pioneer of the Philippine snack foods industry, is one of the leading agro-processors in the Philippines, with 14 plants located throughout the country. **URC** is one of the companies owned by JG Summit Holdings , Inc. which also owns and operates hotels, shopping malls, banks, and other industrial activities.

Questions or clarifications regarding the above proposal must be directed to the following official contact:

Engr. Edgar G. Canoy,  
Corporate Engineering Maintenance Manager/Energy Manager  
Universal Robina Corporation,  
CFC Administration Bldg.  
E. Rodriguez Jr. Avenue,  
Bagong Ilog, Pasig City, Metro Manila,  
Philippines  
Telefax No. (632) 671-1041 ; (632) 671-3977  
E-mail: [Ed\\_Canoy@jgsummit.com](mailto:Ed_Canoy@jgsummit.com)

Forms of proposal and specifications and detailed information on the technical aspects of the project and facility will be available upon request from the above-named official.

Advertised:

Issue of: [date]

## REQUEST FOR PROPOSALS

**Universal Robina Corporation (“URC”)** invites proposals for performance contracting services to improve energy efficiency of URC - Rosario Plant located at Marikina Road, Rosario, Pasig City, Metro Manila, Philippines.

Proposals are due on or before 4:30 P.M. (Philippine Standard Time) on the date shown in Section “5,” Significant Dates. Send proposals to:

**Corporate Engineering and Maintenance Department,  
Universal Robina Corporation  
CFC Administration Bldg.  
E. Rodriguez Jr. Avenue,  
Bagong Ilog, Pasig City, Metro Manila  
Philippines**

Reference: Performance Contracting - Universal Robina Corporation – Rosario Plant

### 1. Purpose

This Request for Proposals (“RFP”) is being issued to select a contractor, to implement energy-saving improvements at URC – Rosario Plant. The contractor will perform a detailed energy study of energy cost-saving opportunities, design, furnish, and install improvements selected by **URC**, maintain and repair these improvements, and finance the project such that the payment to the contractor is contingent on the level of savings achieved (or energy produced). The primary objective of this RFP is to realize maximum energy efficiency improvements.

### 2. Background Information

An on-going goal of **Universal Robina Corporation** is to use energy more efficiently at all its manufacturing facilities. To this end, energy audits have been carried out on twelve (12) URC facilities/plants all over the Philippines. These energy audits indicated significant scope for cost effective energy retrofits. To date, demonstration projects for high-efficiency motors and high efficiency lighting have been implemented in two URC plants. However, large retrofits had not been implemented in view of the current budgetary constraints.

The intent of this Request for Proposal is to implement a comprehensive retrofit in one of the manufacturing facilities of Universal Robina Corporation , URC - Rosario Plant, through a performance contracting project initiated by the Philippine Department of Energy in cooperation with State of Hawaii’s Energy, Resources, and Technology Division of the Department of Business, Economic Development, and Tourism

(DBEDT). The project is intended to demonstrate the mechanism and benefits of performance contracting to the public and private sectors.

Recognizing the benefits of performance contracting, **Universal Robina Corporation** agreed to be chosen as site model for the performance contracting project in the Philippines since performance contracting can provide the opportunity for implementing large upgrades aimed at reducing energy consumption and energy costs without the up-front investments to the company. Should this be successfully implemented in URC – Rosario Plant, performance contracting can be replicated in all its facilities all over the Philippines.

For the Philippine government, this project hopes to serve as catalyst in developing an energy service industry in the Philippines. The Philippine's Department of Energy and State of Hawaii's DBEDT will provide technical assistance to the **URC** during project development, implementation, monitoring, and verification of savings.

### 3. Scope of Work and Minimum Qualifications

- a. Scope of Work. **URC** invites Proposals to provide performance contracting services for energy costs savings measures at URC Rosario under which the selected Contractor shall:
- 1) Perform a detailed study of energy cost savings measures and renewable energy opportunities at the **URC Rosario** at contractor's sole expense. The energy study shall identify all feasible energy conservation, load management, and renewable resource options with benefits exceeding costs over the contract term. The study shall document existing conditions and an Energy Baseline. Contractor shall furnish a written report of its findings. (Preferred form of the Energy Study Report is shown in attached Appendix 2 and this document shall be made part of the Performance Contract for Energy Services between URC and the selected Proposer.)
  - 2) Design, furnish, and install energy efficiency improvements identified in the Energy Study accepted by the **URC**. The Contractor shall be responsible for quality control during the installation of all Energy Efficiency Measures (EEM). Contractor shall inspect and test all work performed to insure compliance with Contract requirements.
  - 3) Provide repairs, maintenance, and training for Contractor-installed equipment for the term of the agreement. Contractor, at its sole expense, shall be responsible for periodic inspections, tests, adjustments, and repairs required to sustain and/or restore energy systems to as-designed performance and performance requirements of this contract. Contractor shall provide operations and maintenance training and manuals for **URC** staff. The Contractor may also propose to provide repairs and maintenance for **URC**-owned energy equipment.
  - 4) Finance all of the equipment and services provided on terms such that the level of payments by **URC** is contingent on the measured energy cost savings (or energy production). This means that the total payments by **URC** for utilities, fuel and the energy performance contract do not exceed the amount that the **URC** would pay for fuel and utilities without a performance contract. Continuation of the contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the applicable funding authority.
  - 5) The term of any energy performance contract shall not exceed ten years. After selection of a Contractor, an award letter is written and the Contractor directed to begin the Energy Study. Following acceptance of



the Energy Study and completion of all other requirements a Notice to Proceed with construction is issued. The term of the contract begins on the date of the Notice to Proceed with Construction. **URC** prefers an agreement term that will maximize the energy-savings and maintenance services that can be provided under the contract. The contract will provide that **URC** shall receive title to the energy-saving measures being financed.

- 6) Proposers shall identify proposed improvements to be made to the Facility. However, **URC** recognizes that the scope of improvements are subject to change based on the Energy Study to be performed by the Contractor. If the proposed improvements offered in the Energy Study are materially less advantageous to **URC** than the terms supplied in the Proposal, **URC** will have no obligation to compensate the Contractor for preparation of the Energy Study. If **URC** elects not to continue with the implementation of the energy efficiency or renewable energy improvements proposed by the Contractor after the Study has been accepted, **URC** will pay the fee indicated as set forth in "Energy Study Cost," (see RFP part 5-6, page 26) provided the proposed contract terms offered by the Contractor comply with all the requirements set forth in this RFP.
- b. Minimum Qualifications for Prospective Proposers. A Proposer who is interested in responding to this RFP must meet the following minimum qualifications. Joint ventures or combinations of firms responding to this RFP will be evaluated with respect to the minimum qualifications based on their combined qualifications.
- 1) Have three (3) years of experience providing performance contracting services for commercial or institutional facilities.
  - 2) Have principally completed at least five separate performance contracts through construction of which at least two must have construction values of \$100,000 or more.
  - 3) Have the credit worthiness and sufficient financial resources to complete the project lien free.
  - 4) At the time **URC** determines to make award on the project, the Proposer shall possess a valid Philippine contractor's license. If the Proposer is a joint venture, all parties to the joint venture must be individually licensed or the joint venture must be licensed. If **URC** determines that the Proposer does not possess a valid license at the time of award, its proposal will not be considered.

- 5) Be able to provide security for the payment and performance of the Contractor's obligation to complete the construction of the project lien free as required in provision L."Requirement of Performance and Payment Bonds."

4. Official Contact Person

The official contact for all communications regarding this Request for Proposals is:

Engr. Edgar Canoy  
Corporate Engineering Maintenance/Energy Manager  
Universal Robina Corporation  
CFC Administration Bldg.  
E. Rodriguez Avenue Jr.,  
Bagong Ilog, Pasig City, Metro Manila  
Philippines  
Telefax No. (632) 671-1041 ; (632) 671-3977  
E-mail: Ed\_Canoy@jgsummit.com

All questions concerning this RFP, including the technical aspects of the project, should be directed to the above-named official contact person.

5. Significant Dates

**URC** prefers to implement this project as quickly as possible. The planned schedule for the solicitation, selection, and negotiation process is outlined below.

**EVENT AND DATE**

<b>Advertising and Issuance of RFP</b>	<b>To be determined</b>
<b>Notice of Intention to Propose Deadline</b>	<b>August 10, 2000</b>
<b>Deadline for Submittal of Written Questions</b>	<b>August 15, 2000</b>
<b>Proposal Due</b>	<b>August 31, 2000</b>
<b>Contractor Selection</b>	<b>Award will be made, if acceptable response is received, as soon as possible after proposal opening.</b>

6. Notice of Intent to Propose

In order to receive updates to the RFP and responses to inquiries, prospective Proposers must submit a written Notice of Intention to Propose addressed to the official contact person by 2:30 p.m. on the date specified in the "Significant Dates" section. The Notice

of Intention to Propose must be actually received, not simply postmarked, by that date. Notice of Intention to Propose may be submitted by facsimile

A Notice of Intention to Propose form is attached (D-20). Failure to submit a Notice of Intention to Propose by the time specified above shall disqualify a Proposer from proposing on the project.

6. General Requirements for the Submission of Proposals

a. Definition of Terms.

The words defined in this Section shall have the meanings set forth below whenever they appear in this contract unless:

- 1) The context in which they are used clearly required a different meaning; or
- 2) A different definition is prescribed for a particular provision.

Amendment: A written document which may be issued by the Contracting Officer after issuance of a Request for Proposals (RFP), but before the time for opening of proposals, to make changes in quantity, specifications, delivery schedule, opening dates, etc., or to correct a defective or ambiguous RFP.

Advertisement: A public announcement inviting proposals for goods, services, and construction to be performed or furnished.

Calendar Day: Any day including Saturdays, Sundays and State-recognized legal holidays, beginning at midnight and ending at midnight the following day. If no designation of calendar or working day is made, "day" shall mean calendar day.

Contract Bond: The performance and payment bond. This is the approved form of security furnished by the contractor and his/her Surety to guarantee the completion of the work in accordance with the terms of the contract, and to guarantee full payment of all claims for labor, materials and supplies used or incorporated in the work.

Contracting Officer: The Corporate Maintenance Manager/Energy Manager, or any person who has been delegated authority by the Corporation to enter into acquisition contracts for **URC**.

Contractor: Any individual, partnership, firm, corporation or joint venture, or other legal entity undertaking the execution of the work under the terms of the contract with **URC**, and acting directly or through his/her, their, or its agents, employees or subcontractors.

Dispute: A claim of the Contractor for the payment of money, adjustment or interpretation of the contract terms, or other relief, arising under or related to the contract.

Holidays: The days of each year that are set apart and established as legal holidays by the government.

May: Means permissive

Offer: A Proposal submitted in response to a Request for Proposals.

Proposal: The offer of a Proposer, submitted in the prescribed manner, to perform at the prices quoted for the work required within the time prescribed for performance.

Proposer: Any individual, partnership, or corporation submitting or proposing, directly or through a duly authorized representative or agent, a proposal to supply the goods specified and/or to perform the services as indicated.

Responsible Proposer: A Proposer who: (1) has adequate financial resources, or the ability to obtain such resources as required for contract performance; (2) is able to comply with required delivery of performance schedule, taking into consideration all existing business commitments; (3) has a satisfactory record of performance; and (4) has a satisfactory record of integrity, and is otherwise qualified and eligible to receive an award under applicable laws. When the situation warrants, special standards of responsibility applicable to a particular procurement may be developed to insure the existence of unusual expertise or other factors necessary for adequate contract performance.

Responsive Proposer: A Proposer whose Proposal complies with the specifications and terms set forth in the Request for Proposal as determined by **URC**.

Shall: Means mandatory.

Special Provisions: The specific clauses setting forth conditions or requirements peculiar to the individual project under consideration that are not thoroughly or satisfactorily stipulated in the General Provisions.

Subcontractor: An individual, partnership, firm, corporation, joint venture or other legal entity that enters into an agreement with the prime contractor to perform a portion of the work for the Contractor.

State: Republic of the Philippines.

Surety: A reputable individual, firm or corporation that is bound by the contract bond with and for the Contractor to insure his/her acceptable performance of the contract.

Technical Representative of the Contracting Officer ("TRCO"): The person identified and designated by the Contracting Officer to address only technical matters regarding the project, who is without contractual authority.

**URC: Universal Robina Corporation.**

Working Day: A calendar day, exclusive of Saturdays, Sundays, and State-recognized legal holidays.

b. Disqualification of Proposers.

Any one or more of the following causes shall be considered as sufficient for the disqualification of a Proposer:

- 1) Evidence of collusion among Proposers.
- 2) Lack of responsibility (see definition of Responsible Proposer), including, but not limited to, arrearages on existing contracts in litigation or defaults on a previous contract.
- 3) Delivery of proposals after the deadline. (See definition of Responsive Proposer.)
- 4) Proposal not signed by an authorized individual.
- 5) Failure to follow directions and instructions in the RFP.
- 6) Placing conditions, limitations, or restrictions on the proposal.
- 7) If the proposal shows any non-compliance with applicable law or contains any unauthorized additions or deletions, conditional or incomplete offer, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous as to meaning.
- 8) Failure to provide the requested security for the performance of the obligation

c. Certification of Independent Price Determination

By submission of this proposal, each Proposer certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this procurement:

- 1) The prices in this proposal have been arrived at independently, without any consultation, communication, or agreement, with any other Proposer or competitor for the purpose of restricting competition, relating to (i) such prices, (ii) the intention to submit a proposal, or (iii) the methods or factors used to calculate the prices offered.
  - 2) Unless otherwise required by law, the prices submitted in this proposal have not been knowingly disclosed by the Proposer to any other Proposer or competitor and will not knowingly be disclosed by the Proposer to any other Proposer or competitor prior to opening of proposals.
- d. Examination of Request for Proposals (RFP) and Contract Forms.

The Proposer shall examine carefully the Request for Proposals and contract forms. By submitting a proposal, the Proposer certifies an understanding as to the conditions to be encountered, as to the character, quality and quantities of work to be performed, and labor, material, and equipment to be furnished, and as to the requirements of the contract. No additional compensation will be granted because of the lack of knowledge or misunderstanding of all the requirements of the work to be accomplished.

- e. Conditions at Site.

Each Proposer may visit the site and examine the conditions of same and be aware or satisfied as to the character and amount of work to be performed as called for by the RFP. No additional allowance will be granted because of lack of knowledge of such conditions. Proposers may arrange for an appointment by calling on the Official Contact Person or the Technical Representative on any normal working day, Monday through Friday, after 9:00 a.m., but not later than 4:00 p.m.

- f. Written Inquiries.

Written Inquiries concerning this RFP shall be submitted to **Corporate Engineering Maintenance Manager/Energy Manager, Universal Robina Corporation, CFC Administration Bldg. E. Rodriguez Jr. Avenue, Bagong Ilog, Pasig City, Metro Manila, Philippines.** Written inquiries must be clearly marked "Performance Contracting for URC Rosario" and identified as "**RFP No. 2000-1**". All inquiries must refer to the page and applicable RFP section to which the question relates. Any written inquiries submitted in accordance with this section shall be answered in writing by **URC** within 15 working days. **URC** reserves the right to decline to answer specific questions.

g. Preparation of Proposals.

The Proposer's offer shall be submitted on the forms and/or in the format furnished by **URC**. All information required in the proposal shall be filled in, in accordance with the instructions thereon. The Proposer shall sign the proposal in the spaces provided (must be an original signature). If the proposal is made by an individual, his/her name and post office address must be shown. If made by a corporation, the proposal must show the name of the state under the laws of which the corporation was chartered and the names, titles, and business addresses of the president, vice-president, and secretary, as well as evidence showing the authority of the Proposer to enter on behalf of said corporation into a contract with **URC**. If made by a joint venture, the name and post office address of each member of the individual firm, partnership, or corporation comprising the joint venture must be shown with other pertinent information required of firms, partnerships or corporations, as the case may be.

Proposal prices shall be in U.S. dollars.

When proposals are signed by an agent, other than the officer or officers of a corporation, authorized to sign the proposal on its behalf, or a member of a co-partnership, a power of attorney or Secretary's Certificate must be on file with **URC** prior to opening of proposals, or it shall be submitted with the proposal; otherwise, the proposal will be rejected as irregular and unauthorized. Telegraphic and facsimile (FAX) proposals and mailgrams are not acceptable; however, proposals may be withdrawn by written, telegraphic, or FAX notice if such notice is received at the place and by the time specified in the Notice to Proposers.

h. Tax Requirements

All companies shall obtain and provide a tax clearance from the Philippine Bureau of Internal Revenue (BIR) as a prerequisite to entering into a public contract of \$10,000 or more and prior to final contract payment.

i. Cost of Proposal Preparation.

Costs for developing proposals are solely the responsibility of the Proposers, whether or not any award results from this solicitation. **URC** will provide no reimbursement for such costs. Any costs associated with any oral presentations to **URC** will be the responsibility of the Proposer and will in no way be billable to **URC**.

j. Withdrawal of Proposals.

Any Proposer may withdraw its proposal, either personally or by written request, at any time before opening of the proposals, provided that such notification is received before the date of the opening of the proposals. Negligence on the part of the Proposer in preparing its proposal confers no right of withdrawal or modification of the proposal after such proposal has been opened.

k. Cancellation of RFP.

**URC** reserves the right to cancel any Request for Proposals before the contract is awarded on behalf of **URC - Rosario Plant**. Any and all proposals may be rejected in whole or in part when it is in the best interest of **URC**.

l. Requirement of Performance and Payment Bonds.

The Proposer to whom the contract is awarded must post a bond to guaranty full and faithful performance of this contract, and also for the prompt payment to all others for all labor and materials furnished in the prosecution of the work, good and sufficient contract performance and payment bonds, each in the amount of ONE HUNDRED PER CENT (100%) of the total construction cost of proposed energy efficiency measures. Acceptable contract performance and payment bonds shall be limited to:

- 1) Surety bond underwritten by a reputable company licensed to issue bonds by the Insurance Commission in a form satisfactory to the Commission;
- 2) Legal tender; or
- 3) A bank guarabtee; stock certificate; or cashier's, treasurer's, teller's or official check drawn by or a certified check accepted by, and payable on demand to **URC** by a bank, a savings institution, or credit union insured by the Philippine Deposit Insurance Corporation.
  - a) These instruments may be utilized only to a maximum of \$100,000.
  - b) If the required security or bond amount goes beyond \$100,000, more than one instrument not exceeding \$100,000 each and issued by different financial institutions shall be accepted.



m. Failure to Execute the Contract.

If the Proposer to whom a contract is awarded shall fail to enter into the contract and furnish satisfactory security within THIRTY (30) days after such award or within such further time as the Contracting Officer may allow, **URC** may thereupon award the contract to the next ranked responsive and responsible Proposer, or may call for new proposals, whichever method it may deem to be in the best interest of the **URC**.

9. Facility Information

Detailed information on facilities such as facility descriptions, including information on number of manufacturing lines and building, operating schedules major energy using equipment, historical energy use and energy costs shall be made available upon request. Recent monthly utility bills are provided in Appendix A.

10. Statutes

By submitting a proposal, the Proposer at all times shall observe and comply with all the State, and local laws or ordinances, rules, and regulations which in any manner affect those engaged or employed in the work, the materials used in the work, and the conduct of the work. Any reference to such laws, ordinances, rules, and regulations shall include any amendments thereto. URC shall direct Proposer's attention to these State and local statutes and the Proposer shall comply with the provisions and acknowledges any rights **URC** has under these laws.

11. Procedure for Proposal Evaluation and Contractor Selection

The procedure for proposal evaluation will be as follows:

- a. A committee will evaluate all responsive and responsible proposals. **URC** will review the applicant information and proposal submitted by each Proposer.
- b. After evaluating proposals, the committee may require additional written information from, or conduct discussions with Proposers in order to promote understanding of **URC's** requirements and Proposers' offers, and to facilitate arriving at a contract that will be most advantageous to **URC**, taking into consideration the evaluation factors set forth in the RFP. Any costs associated with discussions or provision of additional information will be borne by the Proposer. Proposals may be accepted on evaluation without such discussion.
- c. Before conducting discussions, a "priority list" will be generated by the evaluation committee. If numerous acceptable and potentially acceptable proposals have been submitted, the evaluation committee may rank the proposals and limit the priority list to at least three responsive and responsible

Proposers who submitted the highest-ranked proposals. Discussions will be limited to only the "priority-listed Proposers." The contents of any proposal will not be disclosed so as to be available to competing Proposers during the discussion and negotiation process.

- d. The procurement officer may establish a date and time for the priority -listed Proposers to submit best and final offers. If priority-listed Proposers do not submit a notice of withdrawal or a best and final offer, their immediate previous offer will be construed as their best and final offer.
- e. After best and final proposals are received, the evaluation committee will recommend a contract award that will be most advantageous to **URC**, taking into consideration the evaluation factors set forth in the RFP.

## 12. Developer Selection Criteria

Each proposal will be evaluated using the following factors and relative priorities:

### a. Proposer Qualifications and Resources (Possible Score: 25 Points)

**URC** prefers proposals that demonstrate that the Proposer has the qualifications, experience, and resources to complete the proposed project on schedule and deliver proposed energy savings reliably over a fifteen-year agreement term. In evaluating this factor, **URC** will consider:

- 1) Documentation of relevant projects including: performance contracts successfully developed by the person(s) responsible for this project's management and/or design, performance contracts developed for public agencies, and projects using similar technologies to those proposed for this project.
- 2) Documentation of projected and actual energy savings in completed performance contracts;
- 3) Education, experience, and qualifications of key personnel proposed for the project;
- 4) Experience of key personnel designing and constructing energy efficiency projects in Hawaii;
- 5) Availability of resources and staff needed to complete the project on schedule and lien free;
- 6) Documentation of the Proposer's experience in financing or arranging financing for performance contracts for the public agencies on advantageous terms; and

7) Completeness and quality of submitted financial information.

b. Technical Approach (Possible Score: 20 Points)

**URC** prefers proposals that demonstrate a superior technical approach to achieving energy cost savings. In evaluating this factor, **URC** will look for proposals that:

- 1) Clearly and specifically describe the proposed energy saving measures, including what existing systems will be modified and how the proposed modification will achieve energy savings;
- 2) Demonstrate knowledge and understanding of the existing systems and operating constraints and propose appropriate measures;
- 3) Employ technologies that have been successfully implemented before by the Proposer and for which local maintenance, repair, and training support are readily available;
- 4) Are responsive to any specific equipment-related goals identified in this RFP; and
- 5) Clearly demonstrate the quality of the energy savings measurement methodology, including the method to establish baseline usage. Because total payments to the selected proposer must be demonstrated to be less than measured energy cost savings, the proposed method to measure savings must be described clearly and completely. **URC** prefers savings measurement methods which (1) use established and proven techniques for which the Proposer can provide samples and project references, (2) verify savings through measurements made over the term of the agreement, (3) use data that are independently verifiable and (4) are consistent with the December 1997 International Performance Measurement and Verification Protocol. Measurement methods that derive savings principally from engineering estimates are unacceptable.

c. Management Plan (Possible Score: 20 Points)

**URC** prefers proposals that include a clear and complete plan for the project, including a realistic milestone schedule. This plan should demonstrate the Proposer's understanding of performance contracting and energy efficiency construction projects in general and the constraints of the participating facility in particular. In evaluating management plans, **URC** will consider:

- 1) Comprehensiveness of management, maintenance, and monitoring services offered and responsiveness to specific goals identified in the RFP;
- 2) Methods to ensure minimum disruption of campus operations;
- 3) Provisions for response and repair in event of emergency;
- 4) Quality of communications between Proposer, facility staff, and **URC**, including written submittals, clarifications, and interviews; and
- 5) Provisions to allow for facility staff input to equipment design, selection, operation, and maintenance on an ongoing basis.

d. Financial Benefits (Possible Score: 20 Points)

**URC** prefers proposals that responsibly maximize financial benefits to the company. In evaluating financial benefits, **URC** will consider:

- 1) The projected net financial benefits to **URC** over the life of the measures (**URC** may include benefits from avoided equipment replacement or maintenance cost savings when calculating net financial benefits);
- 2) The gross energy savings over the agreement term;
- 3) Terms of the guarantee of the project's energy savings and/or financial performance; and
- 4) Proposed methods to minimize project risks, including contract terms to accommodate changes in building use, provisions for early termination, or other provisions to accommodate needs of the facility.

e. Cost (Possible Score: 15 Points)

**URC** prefers proposals that provide services at the lowest possible cost. In evaluating cost, **URC** will consider

- 1) The price information provided in the Table 7-1 (Price Formula);
- 2) The proposed fee for the energy study in the event **URC** elects not to proceed; and
- 3) The cost of the proposal financing (i.e. proposal interest rate and fees).

For those benefit and price attributes that are directly quantifiable, the points allocated to higher price or lower benefit proposals will be equal to the lowest

price (or greatest benefit) multiplied by the maximum points available, divided by the higher proposal price (or lower proposal benefit). If necessary to achieve a consistent basis to compare proposals, **URC** may apply its own assumptions or conventions for the purpose of estimating proposal benefits and prices

<u>Evaluation Factor</u>	<u>Possible Score</u>
Proposer's Qualifications	25
Technical Approach	20
Management Plan	20
Financial Benefits	20
Cost	<u>15</u>
TOTAL	100

13. Instructions for Submitting Proposals.

Proposers should submit an original and eight copies of their proposal, one copy to be clearly marked as ORIGINAL and the others as COPY OF RFP and with the ORIGINAL signed by a person with the authority to commit the Proposer. **NOTE: Submit only TWO (2) sets of Financial Data as required by Part I. Identification of Proposer, Paragraphs 1-4, Financial Information in a separate envelope.** The outer container for the proposal must be clearly marked "PERFORMANCE CONTRACTING FOR URC Rosario, RFP NO. 2000-1" Proposals must be received on or before 4:30 p.m. (Philippine Standard Time) on the date shown in the "Significant Dates" section at the following address:

**Universal Robina Corporation**  
**Corporate Engineering and Maintenance Department**  
**CFC Administration Building**  
**E. Rodriguez Jr. Avenue, Bagong Ilog**  
**Pasig City, Metro Manila,**  
**Philippines,**

Proposals received earlier will be held unopened; late proposals will be rejected. Proposals that do not comply with these requirements shall not be considered. No proposal will be received after the specified time. All these conditions apply regardless of whether a proposal is mailed or hand delivered.

14. Information Required in Proposals and Instruction for Packaging.

Proposals must provide the information described in the attached outline. Major sections of the proposal (that is, parts 1 - 9) should be identified by "tabs." In addition to sections corresponding to parts 1 - 9 attached in the following pages, Proposers may attach other exhibits as the final section of the proposal. All items listed in the proposal outline shall be completed. If an item does not apply to your organization or submittal, so indicate

with the symbol "N/A" (not applicable). Failure to provide requested information may be grounds for a proposal to be disqualified from consideration. Attach pages as needed (8-1/2" x 11") and clearly indicate to which item number (e.g., 1-1, 1-2, etc.) the information corresponds.

Unnecessarily elaborate or bulky proposals are discouraged. **URC** prefers proposals that are complete and thorough but which are also concise and limited to relevant material. Any proposal determined to be materially unresponsive as to proposal content or form may be eliminated from further consideration.

15. Contract Terms and Conditions (T&C).

T&C for the Performance Contract shall be prepared, reviewed and agreed upon by both **URC** and the selected contractor. The standard T&C which URC intends to use for this contract are attached. Any items in the standard terms and conditions that the Proposer prefers to modify shall be reviewed and approved by both parties.

16. Response Forms

Required Forms are provided. Forms in this section are mandatory.

***Response Forms***

**Notice Of Intention To Propose**

DATE: \_\_\_\_\_

**Corporate Maintenance Manager/Energy Manager  
Engineering and Maintenance Department,  
Universal Robina Corporation  
CFC Administration Bldg.  
E. Rodriguez Jr. Avenue,  
Bagong Ilog, Pasig City, Metro Manila  
Philippines**

Gentlemen:

Subject: Notice of Intention to Propose under RFP

No. \_\_\_\_\_

Project: \_\_\_\_\_

\_\_\_\_\_

Proposal Opening Date: \_\_\_\_\_

I intend to submit a proposal for the above-named RFP.

My Contractor's License Number and Classification of License(s) are as follows:

License No.: \_\_\_\_\_

Classification of License(s): \_\_\_\_\_

\_\_\_\_\_

I certify that the information provided above is true and correct to the best of my knowledge.

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

## Response Form

### 1. Identification of Proposer

Identify the Proposer and provide the information listed below.

#### 1-1 General Information

\_\_\_\_\_  
Name of Proposer

\_\_\_\_\_  
Person to Contact/Title

\_\_\_\_\_  
Proposer's Address

\_\_\_\_\_  
Contact Person's Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Proposer's Telephone No.

\_\_\_\_\_  
Contact Person's Telephone No.

\_\_\_\_\_  
Proposer's Facsimile No.

\_\_\_\_\_  
Contact Person's Facsimile No.

\_\_\_\_\_  
Proposer's Taxpayer I.D. No.

Firm Incorporated? Yes\_\_\_ No\_\_\_

Contractors State License No(s). \_\_\_\_\_ Type(s)\_\_\_\_\_

1-2 List corporate officers and directors or individuals, partners, joint venturers or owners, including name, mailing address, and telephone number.

1-3 List corporate shareholders holding 25% or more of the outstanding shares with name, mailing address, and telephone number.

#### 1-4 Financial Information

Note: Financial information submitted to **URC** shall be kept confidential and shall not be considered as a public record. Financial information shall not be released without the express written consent of the applicant. **Failure to submit the required financial information may result in one's proposal being considered non-responsive.**



Submit the following financial information for the Proposer:

- Two years of audited fiscal year-end balance sheets, income statements, and cashflow statements. If these data are unaudited, copies of filed tax returns must be provided;
- If the fiscal year-end financial statements which are listed above are over nine months old, submit current interim balance sheets, income statements, and cashflow statements;
- If applicable, current (less than three months old) financial statement(s) and file copy of tax return(s) of any personal guarantor;
- If applicable, a certified copy of the Articles of Incorporation;
- If applicable, a certified copy of the Corporate Resolution which authorizes the borrowing or guaranty;
- If applicable, a certified copy of the Partnership Certificate or the Joint Venture Agreement; and
- Attach a description of any financial default, modification of terms and conditions of financing to avoid default, or legal actions taken or pending against the Proposer and its principals.

## 2. Identification of Project Team

All Proposers shall include name and nature of scope of work to be performed by each person or firm to be engaged by the Proposer as a Joint Contractor or Subcontractor in the performance of the contract.

Describe the role of each organization involved in the proposed project and the relationships among the project team members, subcontractors, and Proposer. Identify the aspects of the project for which the Proposer and each team member will have responsibility. Identify the organization(s) performing architectural, engineering, or financial consulting services for the project:

Provide name, address, Contractor's license number and classification code, telephone number, and facsimile number for each organization. List separately and identify specific project responsibility (scope of work) for:

- Professional Consultants;
- General Contractor and Subcontractors;
- Organization(s) providing financing-related services for the project; and
- Organization providing the required contract security for the project.

### 3. Project References

#### 3-1 Narrative Summary

Provide a narrative summary of the project team's experience as it relates to the proposed project. Describe prior experience working with the specific subcontractors identified for this project. Describe prior experience in performance contracting. Highlight any experience with buildings similar to those of this project.

#### 3-2 History of Completed Projects.

Fill in the blanks below to show the number of energy efficiency projects completed by the Proposer in recent years:

Contract Value	1996	1997	1998	1999
less than \$100,000				
\$100,000 - \$500,000				
\$500,000 - \$1,000,000				
\$1,000,000 - \$3,000,000				
more than \$3,000,000				

#### 3-3 Sample Projects

On separate sheets, provide the information shown below for up to ten energy performance contracts that the Proposer has managed. Number and format the information as follows:

3-3.1 Project

3-3.2 Client, Client Contact, and Contact Telephone Number

3-3.3 Facility Description

3-3.4 Description of Energy Efficiency Measures (EEM) Installed

3-3.5 Project Construction Cost

3-3.6 Type of Financing/Contract (for example shared savings, guaranteed savings, lease, etc.)

3-3.7 Source of Financing and Interest Rate

3-3.8 Start and End Dates/Current Project Status

3-3.9 Projected and Achieved Energy Savings

3-3.10 Identify Project Team (individuals if employees, company names if subcontractor; use Table 3-3.10)

**Table 3-3.10**

Service	Performed by	
	Proposer	Subcontractor
Energy Audit		
Engineering Design		
Installation		
Financing		
Monitoring		
Service and Maintenance		

4. Personnel Qualifications

4-1 Key Personnel

Identify key personnel and their responsibilities in the project. Describe the qualification and experience of these personnel and estimate their time commitment to this proposed project. Experience in facilities and institutions similar to those involved in this project should be highlighted as well as experience with the specific technologies anticipated for this project.

4-2 Personnel Resumes

Attach resumes of the individuals responsible for project management, energy studies, engineering design (mechanical and/or electrical), financing, construction supervision, maintenance and service, and training.

5. Project Plan

5-1 Summary

Summarize your plan for this project, including the services offered and the specific benefits to **URC** under your approach.

## 5-2 Proposed Approach

Describe your team's capabilities and proposed approach to this project in each of the following areas:

- Evaluating and selecting efficiency measures;
- Designing and specifying efficiency measures;
- Construction and construction management;
- Measurement and verification;
- Repair and maintenance; and
- Training facility staff.

For each of these areas, indicate at what points **URC** will have an opportunity to review and approve Contractor submittals.

## 5-3 Proposed Measures

Describe the energy efficiency measures the Contractor proposes to implement, including each measure's location, maintenance requirements, and special construction or operating requirements (if any). This list is subject to change based on the detailed Energy Study to be performed but should indicate the Contractor's best estimate. Complete Table 5-3 for the proposed measures.



#### 5-5 Savings Measurement

Describe all procedures, formulas, and methods including any metering or equipment you will use to measure savings from the project including:

- Determination of baseline energy use;
- Reasons for and calculation of adjustments to the energy baseline; and
- Method to determine dollar value of energy savings.

#### 5-6 Energy Study Cost

In the blank space below, provide a fixed price for the detailed Energy Study:

If **URC** elects not to proceed after accepting the Contractor's Energy Study Report, or if **URC** and the Contractor cannot agree on the contents or manner of incorporation of the Energy Study within ninety (90) days after submission of the Energy Study Report, then **URC** shall pay Contractor the sum of \_\_\_\_\_ (\$\_\_\_\_\_.\_\_) as compensation for the preparation of the Energy Study Report, unless:

- a. The Contractor's Energy Study Report does not comply with the terms of the Request for Proposals in any material respect, including, but not limited to, failure to offer to finance all of the services provided on terms such that the total payments by **URC** for fuel, utilities, and the energy performance contract do not exceed the amount **URC** would pay for fuel and utilities without a performance contract; or
- b. The total energy savings set forth in the Energy Study Report are less than seventy-five percent (75%) of the total energy savings proposed by Contractor in its proposal; or
- c. The total investment in air conditioning systems set forth in the Energy Study Report is less than seventy-five percent (75%) of the total investment proposed by Contractor in its proposal. (Optional).

In these events, **URC** shall have no obligation to reimburse Contractor for the cost of preparing the Energy Study Report, and may use any information contained in the report or implement any of its recommendations with no cost or obligation to Contractor.

#### 5-7 Proposed Schedule

Provide a schedule of the major steps in development of the project. Include at least the following milestones: (1) completion of the energy study, (2) completion of design and pre-construction activities, and (3) completion of

construction. Indicate at what points **URC** has the opportunity to review and approve and what response times are allowed for any required approvals from **URC**.

5-8      Proposed Project Financing

Describe the proposed method to finance this project. Identify the proposed project financing source for this project. Describe how you propose to guarantee the timely availability of sufficient funds to complete all capital improvements anticipated for this project. **URC** expects the Contractor to finance the project. Project financing source should be identified and letter of commitment to Proposer, starting interest rate, terms and providing a sample financing document should be provided.

6. Projected Cost Savings and Payments

Complete Tables 6-1 through 6-5 for the proposed project.

**Table 6-1**  
**Calculation of Not To Exceed Project Cost**  
(Same as Table 12-2 Energy Study)

Not to Exceed (NTE) Installed Measure Cost	_____	From Table 5-3 RFP
Energy Study Fee	_____	From Table 7-1.1
Design Services	_____	From Table 7-1.2
Construction/Project Management Services	_____	From Table 7-1.3
General Contractor Overhead and Profit	_____	From Table 7-1.4
Commissioning and Initial Training	_____	From Table 7-1.5
Interest During Construction	_____	From Table 7-1.6
Bond Fees	_____	From Table 7-1.7
Miscellaneous Fees and Permits	_____	From Table 7-1.8
Project Development Fee	_____	2% of Installed Measure Cost
Other	_____	Specify
Pre-Tax Subtotal	_____	
Hawaii General Excise Tax	_____	
Other Taxes	_____	
Subtotal (NTE) Project	_____	
Less Utility Rebate	_____	
TOTAL (NTE) Project	_____	



**Table 6-2**  
**Calculation of Cost Savings**  
(Same as Table 12-3 in the Energy Study)

Year	Annual Energy Cost Savings {A}	Maintenance Cost Savings {B}	Other Cost Savings{ C}	Gross Savings {D}={A}+{B}+{C }	Total Payments (from Table 12-4) {E}	Net Savings {F}={D}- {E}
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
TOTAL						

Notes: Include utility rebates in “Other Cost Savings” if they will be included as part of the project.

**Table 6-3**  
**Payment Schedule and Termination Value**  
(same as Table 12-4 in the Energy Study)

Year	Contract Payments {A}	Payment Summary		Other (Specify) {D}	Total Payments {E}={A}+{B}+{C}
		Maintenance Services Fee {B}	Operations Monitoring Fee {C}		
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
TOTAL					

Notes: Operations Monitoring Fee equals 1.5% of Gross Annual Energy Cost Savings. Maintenance service fee is for other than contractor-installed equipment.

**Payment Schedule and Termination Value**

Year	Termination Value	Total Payments From Above	Payment Number		Payment Number		Payment Number		Payment Number	
			Date	Amount	Date	Amount	Date	Amount	Date	Amount
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
TOTAL										

Notes: Enter the date and amount of each payment. Show additional payments on another sheet if necessary.  
“Termination Value” is the lump sum payment required to buy out of the contract and receive title to all equipment in each year. If this option is not proposed in any year(s), indicate by “NA.”

**Table 6-4**  
**Wage Certificate**

The terms and conditions contained therein are mandatory for an accepted proposal. Failure to submit the Wage Certificate may result in one's proposal being considered non-responsive.

Description of Project: **RFP No. 2000-1 - Performance Contracting for URC – Rosario Plant**

I hereby certify that if awarded the contract, any maintenance services to be performed will be performed under the following conditions:

1. The maintenance services to be rendered shall be performed by employees paid at wages or salaries not less than wages paid to the public officers and employees for similar work, if similar positions are listed in the classification plan of the public sector.
2. All applicable laws of the country relating to workmen's compensation, unemployment compensation, payment of wages, and safety will be fully complied with.
3. The contractor warrants that it is duly enrolled in the Registry of Contractor and Subcontractor of the appropriate office of the Department of Labor and Employment (DOLE).

Contractor shall be obliged to notify its employees performing work under this contract of the current wage rate for public employees performing similar work. The Contractor may meet this obligation by posting a notice to this effect in the Contractor's place of business accessible to all employees, or the contractor may include such notice with each paycheck or pay envelope furnished to the employee

I understand that all payments required by State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wages required.

Proposer: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

7. Contract Terms

7-1 Complete Table 7-1. Address each of the following:

Payments

Describe the basis for payments. Describe the method for calculating payments and describe the linkage between price and measured energy savings. Provide a sample price calculation based on the improvements and estimated energy savings in the proposal. Describe all payments expected including any special fees for optional services. (Table 6-3).

7-2 Escalation Factors, Fuel Price Adjustments, etc.

Describe how energy savings will be valued for the purpose of calculation of cost savings (whether for payment or guarantee calculations). List any escalation factors and the impact of changing energy prices on the valuation of savings.

7-3 Contract Duration (maximum term is ten years)

Indicate the Proposer's preferred duration of the performance contract. If various contract terms are available, indicate the effect on pricing of longer or shorter terms. Also indicate if longer or shorter terms will increase the improvements that can be financed.

7-4 Savings Guarantees

Describe any guarantee of energy or cost savings offered by the Proposer. Describe the timing of comparisons between actual and guaranteed savings, and the method of payment. Excess savings in one period may not be carried over against shortfalls in other periods; savings during construction may not be included in first year savings. Provide a sample calculation illustrating the method.

7-5 Changes Requested to Standard Terms and Conditions

List any items in the attached standard terms and conditions that the Proposer prefers to modify or believes are inapplicable or inconsistent with the Proposal.

## 7-6 Purchase Options

Describe the purchase options available and the cost of exercising these options. Transfer of equipment title to **URC** at the end of the contract term is a threshold requirement.

## 7-7 Financing Documents

Attach samples of any and all documents which may be required to complete financing of the project.

**Table 7-1**  
**Price Formula**

(Same as Table 12-1 in the Energy Study)

7-1.1	Energy Study Fee	\$_____.
Estimated Cost to Prepare Energy Study (if different from price above)		\$_____.
7-1.2	Design Services	\$_____ or _____% of Construction Cost
7-1.3	Construction/Project/ Management Services	\$_____ or _____% of Construction Cost
7-1.4	General Contractor Overhead and Profit	Overhead _____% of Construction Cost Profit _____% of Construction Cost
7-1.5	Commissioning and Initial Training	\$_____ or _____% of Construction Cost
7-1.6	Interest During Construction	\$_____ at _____%
7-1.7	Bond Fees	\$_____ or _____% of Construction Cost
7-1.8	Miscellaneous Fees and Permits	\$_____ or _____% of Construction Cost
7-1.9	Term Financing Interest Rate	_____ % of Principal (APR)
7-1.10	Monitoring, Verification, and Savings Guarantee	\$_____ or _____% of Energy Savings
7-1.11	Maintenance Services Overhead and Profit	Overhead _____% of Construction Cost Profit _____% of Construction Cost

8. Proposal Signature Block

Include the following text and an original signature in the Proposal:

The undersigned represents and warrants that the information provided is true and complete and that **URC** may consider the information as continuing to be true and correct until a written notice of a change is given to the **URC** by the undersigned. The undersigned agrees to provide any other information that **URC** deems necessary to determine the qualifications of the applicant.

\_\_\_\_\_  
Name of Company

By \_\_\_\_\_  
Signature

By \_\_\_\_\_  
Title

Date \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Phone No. \_\_\_\_\_

Facsimile No. \_\_\_\_\_

9. Proposal Checklist

Use the following checklist to review the project proposal for completeness. Please indicate the pages addressing each item.

Form		Page Numbers
1.	Notice of Intention to Propose	_____
2.	Identification of Proposer	_____
3.	Identification of Project Team	_____
4.	Project References	_____
5.	Personnel Qualifications	_____
6.	Project Plan	_____
7.	Projected Cost Savings and Payments; Preference (w/Tax Clearance)	_____
8.	Proposed Contract Terms	_____
9.	Proposal Signature Block	_____
10.	Proposal Checklist	_____
Tables		
3-2	History of Completed Projects	_____
3-3.10	Project Team	_____
5.3	Summary of Proposed EEM's	_____
6.1	Calculation of Not to Exceed Project Cost	_____
6.2	Calculation of Cost Savings	_____
6.3	Payment Schedule and Termination Value	_____
6.5	Wage Certificate	_____
7.1	Price Formula	_____

## PERFORMANCE CONTRACT FOR ENERGY EFFICIENCY SERVICES

THIS CONTRACT, made as of the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between **Universal Robina Corporation**, hereinafter referred to as **URC**, acting by and through its **VP-Manufacturing** and \_\_\_\_\_ a \_\_\_\_\_ corporation having its principal offices at \_\_\_\_\_ hereinafter referred to as the **Contractor**,

WITNESSETH THAT:

WHEREAS, the **URC** owns the Facility;

WHEREAS, Contractor provides certain services and equipment to reduce energy consumption in buildings;

WHEREAS, Contractor has submitted a written proposal in response to the **URC**'s request and has been selected by **URC** as the most qualified Proposer for the work herein described;

NOW THEREFORE, in consideration of the mutual promises hereinafter set forth, the parties agree as follows:

### 1. Definition

Key terms used within this contract are defined as follows:

**Energy Baseline** - The energy baseline is a calculation or measure of each type of energy consumed in existing facilities, prior to the installation of energy efficiency measures. For purposes of this contract, electrical demand, measured in kilowatts (kW) will be considered a type of energy.

**Energy Efficiency Measure (EEM)** - An EEM is the installation of new equipment, modification or alteration of existing **URC** equipment/facilities, or revised operations and maintenance procedures to reduce energy costs by improving efficiency of use.

**Energy Savings** - Energy savings is a reduction of energy consumption or electrical demand resulting from the Contractor's energy efficiency measures. Energy savings shall be determined by comparing the energy baseline with the energy consumed (or demand) after Contractor has implemented energy efficiency measures.



**Substantial Completion Date** - The date on which the Contractor warrants by written notice that the EEMs are substantially complete and are producing savings equal to or greater than the Guaranteed Savings.

**Termination Value** - The amount **URC** may pay to Contractor after the first anniversary of Substantial Completion Date to terminate this agreement for convenience. This amount shall be the total price shown in Article 5.2b, less any payments already made.

2. Contract Documents

2.1 Documents Included. It is understood and agreed that the following documents, and any amendments or addenda thereto, comprise this Contract and are as fully a part of this Contract as though attached hereto or set forth at length herein: (1) General Terms and Conditions for Goods and Services dated \_\_\_\_\_ (attached as Appendix 1); (2) Request for Proposal No. \_\_\_\_\_, including the offer, General Provisions, and specifications contained therein, and (3) the Energy Study Report to be executed by Contractor and **URC** (attached as Appendix 2).

2.2 Entire Agreement. This Contract is the entire agreement between the parties, and no alterations, changes or additions thereto shall be made, except in writing approved by the parties.

3. Contractor's Services

3.1 Energy Study

- a. Contractor shall perform a detailed energy study of the Facility at its sole expense. The energy study shall identify all feasible energy conservation, load management, and renewable resource options with benefits exceeding costs over the contract term. The energy study shall also address the following options specifically identified by **URC**:  
\_\_\_\_\_. The study shall document existing conditions, including building physical conditions; hours of use or occupancy; area of conditioned space; inventory of energy consuming equipment or systems; and energy consuming equipment operating conditions or loads. The Energy Study Report shall document an Energy Baseline and proposed methods to measure and verify Energy Savings. Contractor shall furnish a written report of its findings including all of the information listed in the form attached as Appendix 2.
- b. Within ninety (90) days of the effective date of this Contract, the Contractor shall submit the study report to **URC** for review and acceptance prior to installation of any EEMs. **URC** acceptance of the Energy Study Report establishes mutual agreement of the equipment Contractor will install, energy baseline, and other terms of the Contract. The final version of the Energy

Study Report shall be attached as Appendix 2 once it has been reviewed, approved, and accepted on behalf of the **URC** by the Contracting Officer. Agreement on the content and form of the Energy Study Report will be evidenced by executing the attached Energy Study Report acceptance form, whereupon the Energy Study Report will be incorporated as Appendix 2 and shall be a part of this Contract as though fully set forth herein.

### 3.2 Equipment Design and Construction.

- a. Within thirty (30) days of **URC** acceptance of the Energy Study Report, Contractor shall commence designing and obtaining EEMs. Contractor shall prepare and submit EEM installation plans to **URC** for review and approval prior to beginning EEM installation. Installation plans shall be certified by an engineer registered in the Philippine Professional Regulatory Commission to assure compliance with applicable building codes. Such certification shall be at the Contractor's sole expense.
- b. The Contractor shall be responsible for quality control during the installation of all EEMs. Contractor shall inspect and test all work performed to insure compliance with Contract requirements. Contractor shall maintain records of inspections and tests, including any conducted by or for a utility or other regulatory agencies.
- c. Contractor shall complete EEM installation by the date specified in Contractor's Energy Study Report.

### 3.3 Notice of Completion

The Contractor shall notify **URC** in writing when the EEMs are installed and substantially complete by submitting a Notice of Substantial Completion and a written request for inspection. The request shall identify the total construction cost (including change orders), location, description of EEMs, planned testing of EEMs to verify performance, and recommended dates for inspection. Whenever possible, both **URC** and Contractor representatives will simultaneously inspect EEMs to facilitate mutual agreement on satisfactory Contract performance. **URC** shall provide written notification to Contractor of the scheduled date and time for **URC** inspection within ten (10) days of receipt of inspection request. Following satisfactory inspection, **URC** shall issue a Certificate of Substantial Completion.

### 3.4 Maintenance and Repair of EEMs

Contractor, at its sole expense, shall be responsible for maintenance and repair of all EEMs installed unless **URC** responsibility is expressly identified in the Energy Study Report and approved by **URC**. Maintenance includes all work and costs associated with periodic inspections, tests, calibrations, and adjustments required

to sustain and/or restore energy system operational status to as-designed performance and performance requirements of this contract. Repair includes all labor, material, and equipment required to replace, rebuild, or restore to as-designed performance systems and equipment that have failed.

### 3.5 Operation and Maintenance Manuals and Training

- a. Contractor shall furnish operation and maintenance manuals and recommended spare parts lists for operations and maintenance of the Contractor-installed EEMs and modified **URC** equipment.
- b. Within thirty (30) days of the installation completion, Contractor shall train **URC** personnel as required to operate, maintain, and repair EEM equipment and systems in the event of emergencies
- c. The Contractor shall train **URC** personnel or a designee to operate, maintain, and repair EEM equipment ninety (90) days prior to the end of the Contract term.

## 4. Responsibilities of **URC**

### 4.1 Reviews and Approvals

**URC** shall review and reply to Contractor submitted materials (that is, Energy Study Report, EEM installation plans) within 30 days of receipt of **URC** unless a different period is explicitly stated elsewhere in this Contract. If the materials are approved, **URC** shall so indicate in writing. If the materials are not approved, **URC** shall so indicate by written notice listing exceptions to the materials for correction by the Contractor.

### 4.2 Equipment Location and Access

- a. **URC** shall furnish mutually satisfactory rent-free space for the installation of the Contractor Equipment.
- b. **URC** shall grant the Contractor access to facility premises at such times as are requested by Contractor and acceptable to **URC**, as needed to enable the Contractor to carry out its obligations under the Contract. **URC** shall not unreasonably withhold approvals for Contractor access to the premises.

### 4.3 Operation and Maintenance of Equipment

**URC** shall provide all necessary operation, maintenance, and repairs to **URC**'s pre-existing equipment provided the Contractor has identified its specific requirements for such procedures and provided training for **URC** facilities

personnel as required in General Provisions 8.3 and 11.

## 5. Compensation

### 5.1 Energy Study Fee

If **URC** elects not to proceed after accepting the Contractor's Energy Study Report, or if **URC** and the Contractor cannot agree on the contents or manner of incorporation of the Energy Study within ninety (90) days after submission of the Energy Study Report, then this contract shall be terminated and **URC** shall pay Contractor the sum of \_\_\_\_\_ (\$\_\_\_\_\_) as compensation for the preparation of the Energy Study Report, unless:

- a. The Contractor's Energy Study Report does not comply with the terms of the Request for Proposals in any material respect; or
- b. The total energy savings set forth in the Energy Study Report are less than seventy-five percent (75%) of the total energy savings proposed by Contractor in its proposal; or
- c. The net financial benefit set forth in the Energy Study Report is less than seventy-five percent (75%) of the net benefit proposed by Contractor in its proposal.

In these events, **URC** shall have no obligation to reimburse Contractor for the cost of preparing the Energy Study Report, and may use any information contained in the report or implement any of its recommendations with no cost or obligation to Contractor.

### 5.2 Payments.

- a. Payment to Contractor shall begin the first calendar month after the Substantial Completion Date.
- b. **URC** shall pay Contractor as specified in the Payment Schedule in the Energy Study Report. Such payment shall continue for a period not to exceed fifteen (15) years from the commencement date noted in the Notice to Proceed.
- c. If the Contractor fails to achieve the Guaranteed Annual kWh and Cost savings specified in the Energy Study Report then **URC** may, at its option, (1) recover the shortfall by deductions from the Contractor's future invoice(s), and/or (2) demand payment of the shortfall, in whole or in part, from the Contractor. Such payment shall be due to **URC** within forty-five (45) days of its demand.

6. Term and Termination

6.1 Agreement Subject to Appropriation

The continuation of this Contract is contingent upon the appropriation of funds to fulfill the requirements of the Contract by the applicable funding authority. If that authority fails to appropriate sufficient funds to provide for the continuation of the Contract, the Contract shall be terminated on the last day of the fiscal year for which allocations were made.

6.2 Termination for Convenience

At any given time after the first anniversary of Substantial Completion, **URC** may exercise an option to terminate this contract by giving ninety (90) days notice and paying the Termination Value.

6.3 Contract Term

This Contract shall be in full force and effect from the date of the Notice to Proceed with Construction through \_\_\_\_\_ (\_\_\_\_) unless earlier terminated under Article 5.1 (Energy Study Fee), Article 5.2b (Payments), Article 6.1a. (Agreement Subject to Appropriation), Article 6.2a. (Termination for Convenience) or for default.

IN WITNESS WHEREOF, the parties have executed this Contract the day and year first above written.

**Universal Robina Corporation**

By \_\_\_\_\_

Its \_\_\_\_\_

**Contractor:** \_\_\_\_\_

By \_\_\_\_\_

Its \_\_\_\_\_

## **ACKNOWLEDGEMENT**

REPUBLIC OF THE PHILIPPINES  
METRO MANILA

> S.S  
>

Before ME, this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_, personally appeared \_\_\_\_\_ and \_\_\_\_\_ to me personally known, who being by me duly sworn, did say that he/she/they is/are the \_\_\_\_\_ of \_\_\_\_\_, the Contractor named in the foregoing instrument, and that he/she/they is/are authorized to sign said instrument on behalf of the Contractor, and acknowledged that he/she/they executed said instrument as the free act and deed of the Contractor.

This instrument, consisting of eight (8) pages including the page on which this acknowledgement is written, has been signed by the above party and his instrumental witnesses on each and every page thereof and sealed with my notarial seal.

In witness thereof, I have hereunto affixed my signature the day, year and place above written

\_\_\_\_\_  
Notary Public  
Until December 31, 2000

Doc. No. \_\_\_\_\_  
Page No. \_\_\_\_\_  
Book No. \_\_\_\_\_  
Series of 2000

## *Appendix 1*

### *General Provisions*

#### 1. Ownership of Contractor-Installed Equipment

- 1.1 All Equipment installed by the Contractor is and remains the property of the Contractor during the contract term.
- 1.2 At the expiration of the contract term, all right, title, and interest in and to all improvements and equipment constructed or installed on the premises and additions, shall vest in the **URC** at no additional cost free and clear of all and any liens and encumbrances created or caused by the Contractor. Contractor shall surrender possession of said premises and the improvements and equipment to **URC** in good repair and condition, reasonable wear and tear excepted.
- 1.3 If the contract is terminated for convenience or for default, all right, title, and interest in and to all improvements, additions, or equipment of all EEMs installed by the Contractor to which **URC** determines to take possession shall vest in **URC**. For those EEMs for which **URC** takes possession and thereby obtains title, the Contractor shall be compensated in accordance with General Provision 22 in case of default or Article 6.2 in case of termination for convenience by **URC**.

#### 2. Protection of Lienholder's Interest

- 2.1 **URC** recognizes that project financing associated with Contractor performance on the contract may be accomplished using third party financing, and as such, may be secured by a security interest in this contract and the contractor equipment or facilities referred to herein. To protect any lienholder's interest, the Contractor may be required to assign to its lenders, some or all of its rights under this contract.
- 2.2 **URC** will consider:
  - 2.2.1 Requests for assignments of moneys due or to become due under the Contract, provided the assignment complies with Section 40-58, HRS.
  - 2.2.2 Requests by lenders or lienholders for copies of any cure or show cause notice issued to Contractor;
  - 2.2.3 Requests by lenders or lienholders for extension of response time to cure or show cause notices;

- 2.2.4 A proposed takeover of contract performance in the event the Contractor defaults in performance. Requests for takeover of the Contract on substantially the same terms and conditions will be approved if the proposed substitute party is acceptable to **URC**.

3. Subcontracting

The Contractor shall not at any time subcontract, convey, transfer, or assign its obligations or services to be performed under this Contract, either in whole or in part, without the prior written consent of the Contracting Officer.

4 Responsibility for Contractor-Installed Equipment

The Contractor shall at all times during the term of the Contract have full ownership responsibilities of the Contractor-furnished systems and equipment. The Contractor may modify, replace, or change the systems and equipment during the Contract from that originally approved. However, any proposed modification, replacement, or change shall require notification and coordination with and approval of the Contracting Officer. Any such modification, replacement, or change of systems or equipment shall be performed by the Contractor at no cost to **URC** and shall not interfere with **URC** operations.

5. Equipment Location and Access

- 5.1 **URC** shall provide mutually satisfactory rent-free space for the installation and operation of the Contractor-furnished equipment and shall protect such equipment in the same careful manner that **URC** protects its own property.
- 5.2 **URC** shall provide access to the premises for Contractor and its subcontractors during regular business hours, or such other hours as may be requested by Contractor and acceptable to **URC**, to install, adjust, inspect, maintain, and repair the equipment. Contractor's access to correct any emergency condition shall not be restricted by the **URC**. The **University** shall keep the area around the equipment reasonably clear so that the Contractor will have access to the equipment and so as not to limit or impair the ability of the Contractor to perform the services.

6. Installation of EEMs

- 6.1 EEM Installation Plans - The Contractor shall prepare and submit installation plans and specifications (the "Installation Plans") to the facility for review and approval before starting EEM installation. The Installation Plan shall include manufacturer's descriptive literature including performance and characteristics data and catalog cuts and shop drawings showing in detail the interface between EEM equipment and existing equipment and the location of EEM equipment on building floor plans.



Installation Plans shall be certified by an engineer registered in the Philippine Professional Regulatory Commission to assure compliance with applicable building codes. Such certification shall be at Contractor's sole expense.

- 6.2 Notice to Proceed - A written notice from the **Corporate Engineering Maintenance Manager /Energy Manager** shall be issued, advising the Contractor of the date on which installation of EEMs shall proceed.
- 6.3 Work Schedule and Existing Operations - The Contractor shall contact **URC** within ten (10) days after **URC**'s issuance of the Notice to Proceed to submit a schedule of work and proposed sequence of work to **URC** for approval. All work shall be scheduled with **URC** at least fourteen (14) calendar days in advance. During the contract period, the existing buildings and grounds will be occupied by **URC**. The Contractor shall perform all work with extreme care to avoid damage to existing construction and installations. The Contractor shall make all necessary provisions to keep interferences to a minimum as to the scheduling of work and storage of materials and shall confine its operations, materials, and equipment within the immediate vicinity of the new work. Contractor shall prearrange or schedule with **URC** for all disruptive noise-producing construction activities so as not to unreasonably obstruct or interfere with any activities of **URC**. The work shall be coordinated and planned in a manner that will permit operation of **URC** facilities without interruptions.
- 6.4 Materials and Workmanship - Unless otherwise specifically provided for in the Installation Plans, all equipment, materials and articles incorporated in the work covered by this contract are to be new and of the best grade of its respective kind for the purpose. All work to be executed shall be of the highest quality and performed by skilled mechanics in the best workmanlike manner. **URC** may require the Contractor to dismiss from the work such employee or employees as **URC** deems incompetent, careless, insubordinate, or otherwise objectionable.
- 6.5 Superintendence - The Contractor shall provide a competent superintendent, satisfactory to **URC**, on the work site at all times during progress of the work with authority to act for the Contractor. The Contractor shall also provide an adequate staff to coordinate and expedite its work properly and shall at all times maintain competent supervision of its work and that of its subcontractors to ensure compliance with contract requirements.
- 6.6 Inspection of Work
  - 6.6.1 An inspector, designated by **URC**, will make daily observation of the work at the site. The Contractor shall direct all inquiries, technical or administrative, to said inspector during construction.

- 6.6.2 All materials and workmanship shall be subject to inspection at any and all times during the period of installation. **URC** has the right to reject defective material and workmanship. Rejected material shall be promptly removed from the job site and satisfactorily replaced. Rejected workmanship shall be satisfactorily corrected.
- 6.7. Removal of Debris and Cleanup - The Contractor shall, as directed during the progress of the work, remove and properly dispose of resultant dirt and debris and keep the premises reasonably clear. Before the work shall be considered completed, all equipment and unused materials provided for the work shall be removed and building and premises will be in a neat and broom-clean condition.
- 6.8. Protection of Persons and Property - Contractor shall provide adequate, clearly marked and/or lighted barricades or warning signs at all open trenches, excavation and contract work areas for the protection of the work and safety of the public and students.
- 6.9. Protection of Property and Buildings - The Contractor shall take all necessary precautions during the progress of the work to protect the buildings as well as adjoining property, roadways, walkways, trees, lawns, landscape, and buildings from damage and injury and shall promptly repair any such damage to the satisfaction of **URC**, at no cost to **URC**.
- 6.10. Quality Control - The Contractor shall be responsible for quality control during installation of EEMs. The Contractor shall inspect and test all work performed during EEM installation to insure compliance with contract performance requirements. The contractor shall maintain records of inspections and tests, including inspections and tests conducted by or for utility or other regulatory agencies.
- 6.11. Utilities
- 6.11.1 Water and Electricity - The Contractor will be allowed to use water and electricity for construction purposes without charge.
- 6.11.2 Interruption of Electrical Service - The Contractor will schedule interruption of electrical service so as to minimize such interruption to **URC** operations. Interruptions shall be permitted only on Saturday afternoons, Sundays and holidays. The Contractor shall notify the **URC**, in writing, at least fifteen (15) days in advance of any proposed interruption and shall obtain the approval of the **URC** prior to the interruption. Scheduled interruptions of electrical service shall not exceed twelve (12) hours.

- 6.11.3 Sanitary Facilities - If existing sanitary facilities of **URC** are close to the contract work area, the Contractor is permitted to use same and shall maintain a sanitary condition at all times. If none is close by, Contractor shall install sanitary facilities at the job site and maintain same in a clean and sanitary condition for the use of the employees on the job site for the duration of the contract. The sanitary facilities shall conform to the requirements of the State Department of Health.
- 6.12 Changed or Unusual Conditions - If an unexpected condition at the work site is encountered, the Contractor shall promptly, before disturbing the condition, notify **URC**, in writing, of the subsurface, latent or unknown physical conditions of an unusual nature at the site differing materially from those encountered and generally recognized as inherent in the work of the character provided for in the contract; **URC** shall promptly investigate the conditions, and if it finds such conditions do materially so differ and will cause an increase or decrease in the Contractor's costs of, or the time required for performance of the contract, **URC** may, in its discretion, without resort to formal advertising, issue a Modification and modify the scope of existing contract with the Contractor, including such equitable adjustment as may be agreed upon between the parties. Or **URC** may, in the alternative, negotiate with other Contractors to perform any additional work required by the changed or unusual conditions.
- 6.13 EEM Documentation - After installation completion **URC** acceptance of the installed EEMs, the Contractor shall submit as-built drawings and operation and maintenance manuals, including recommended spare parts lists, to the Contracting Officer or its designated representative.
- 6.14 Manufacturers' Warranties - The Contractor shall use its best efforts to keep in effect all manufacturers' or other third party warranties relating to the Contractor-installed equipment and ensure that any benefits due to such warranties are passed on to **URC** at the time **URC** becomes the owner of the equipment.

## 7. Operation of EEMs

If new operations work is required for Contractor-installed EEMs, is similar to an existing operations work requirement **URC**-owned equipment, and does not adversely affect **URC** resources, the Contractor may request **URC** in its EEM description to perform operations work on Contractor-installed equipment. **URC** reserves the right not to accept operations work on installed EEMs.

## 8. Maintenance of EEMs

- 8.1 Maintenance work includes periodic equipment inspection, tests, and calibrations, preventive maintenance tasks, and corrective actions required

to sustain and restore energy system operational status to achieve all facility and energy conservation performance requirements of this contract.

8.2 Except as provided below, the Contractor shall be responsible for maintenance of all EEMs installed. Installed EEMs shall include all Contractor-installed equipment and those portions of **URC** equipment that have been modified or replaced to achieve proposed EEM performance.

8.2.1 If the maintenance work is similar to an existing maintenance work requirement (e.g., changing light bulbs) and does not adversely affect **URC** resources, the Contractor may request **URC** to perform maintenance work on Contractor-installed equipment. If **URC** accepts EEM maintenance responsibility, **URC** reserves the right to provide the maintenance work in accordance with its own schedule.

8.2.2 The Contractor may propose to assume responsibility for maintenance on **URC**-owned equipment in order to achieve proposed EEM performance. Any maintenance work provided by the Contractor on **URC**-owned equipment shall be at the Contractor's expense. If the Contractor has taken over repair as well as maintenance of **URC**-owned equipment as part of an approved EEM, that EEM shall include a definition of repair responsibility.

8.3 If the performance of Contractor EEMs is dependent on certain **URC**-owned facilities, systems, or equipment the Contractor may indicate specific requirements for **URC** maintenance practices in the Energy Study Report. Such required maintenance practices will be performed by **URC** provided that they are described in full in the Energy Study Report attached as Appendix 2 and the Contractor has provided any training needed to enable **URC** personnel to perform maintenance practices to Contractor's satisfaction. Contractor shall provide any such training at Contractor's sole expense.

8.4 **URC** will not move, turn off, or otherwise change any Contractor-owned equipment without the consent of the Contractor, unless such action is in accordance with the maintenance procedures provided by the Contractor; or if it is necessary in an emergency to prevent loss of life injury or damage to property, or severe discomfort to facility occupants.

## 9. Damage to or Failure of Equipment

9.1 When Contractor-owned equipment fails or is damaged or destroyed, the Contractor shall be responsible for repairs. **URC** will repair failed Contractor-owned equipment or reimburse the Contractor for such repairs, if the failure resulted from negligence or improper operation by **URC** personnel.

- 9.2 When **URC**-owned equipment fails or is damaged or destroyed, **URC** will be responsible for repairs within a reasonable time period. The Contractor shall provide repairs, at no expense to **URC**, if **URC**-owned equipment failure is a result of actions on the part of the Contractor, including, but not limited to the use of any materials, equipment or workmanship which is inferior, defective, or not in accordance with the terms of this contract. The Contractor shall make repairs within a reasonable period of time, or **URC** may repair or have the repairs made and charge the Contractor for such repair costs. If any such property cannot be satisfactorily repaired or restored, the Contractor shall replace it. If the Contractor elects to take over repair responsibilities of **URC**-owned equipment as part of an EEM, the EEM shall include a listing of the types of repairs that will be the Contractor's responsibility.

10. Contractor Maintenance and Repair Response Time

- 10.1 The Contractor shall establish a point of contact (name and phone number) for use by **URC** in providing response to Contractor equipment failures. Initial telephone response to repair call messages shall be within 60 minutes. If a site visit is needed to repair equipment, repair personnel shall arrive on site within twenty-four hours of the initial telephone response for non-emergency repairs or within five hours for emergency repairs. Although normal Contractor access is during the hours of 8:00 a.m. to 4:00 p.m., the Contractor will have 24 hour per day access to the buildings for emergency work.
- 10.2 In the event that Contractor fails to respond as required above or in the event of an emergency, **URC** may perform emergency repairs to Contractor-owned equipment. The Contractor shall hold **URC** harmless in such cases where the Contractor fails to respond and in emergencies.

11. Training for EEMs

- 11.1 Thirty days prior to the installation completion, the Contractor shall train **URC** personnel as required to operate, maintain, and repair EEM equipment and systems in the event of emergencies.
- 11.2 The Contractor shall train **URC** personnel to operate, maintain, and repair EEM equipment 90 days prior to the end of the contract term or within 90 days after notice by the **URC** in the event of early termination.
- 11.3 The training program described in 11.1 and 11.2 shall provide instruction on operation, troubleshooting, maintenance, and repair of EEMs. Training shall include both classroom and a practical instruction. Course materials shall include Contractor-supplied operation and maintenance plans and

manufacturer-supplied manuals. The program shall be conducted at the facilities where the EEMs are located.

12. Grounds

Parking on lawns, walkways and other landscaped/developed areas are strictly prohibited without prior approval. Where special permission is granted for these areas, Contractors shall be responsible for any damages and must return these areas to their full original condition as determined by **URC**.

13. URC Projects

There shall be no restriction on **URC** projects of any kind including those that may provide energy conservation equipment, the removal of existing energy consuming equipment, or the addition of new energy consuming equipment for facility mission needs.

14. Utility Rebates

The implementation of an EEM may result in **URC** being eligible for a rebate from the serving utility company. The Contractor shall be responsible for preparing any and all documentation required to apply for the rebate. The Contractor shall submit the rebate application and documentation to the Contracting Officer for **URC** submission to the serving utility. Utility rebates may be applied to the capital cost of the project.

15. Standards of Service and Comfort

The following facility performance requirements must be maintained throughout the Contract term.

- 15.1 In conditioned areas, space temperatures between 70°F and 76°F dry bulb, and 30-70% relative humidity shall be maintained during periods scheduled for occupancy.
- 15.2 During unoccupied periods, the cooling system may be turned off. However, the system must be so designed that before any high temperatures or humidity conditions that could damage equipment in the spaces can occur, the cooling system will restart and control the temperature or humidity as required. In any case, temperatures must be restored to the 70°F -- 76°F range by the start of the next occupied period.
- 15.3 Outside air cannot be reduced below the quantities found in ASHRAE standard 62-89, "Ventilation for Acceptable Indoor Air Quality."
- 15.4 Minimum lighting levels shall be in accordance with applicable IES standards for each space (as of the time of EEM installation). If light levels

at such IES standards are a reduction of more than 20% from existing levels, Contractor shall so indicate in the Energy Study Report for review and approval by **URC**.

16. Material Changes and Baseline Modifications

- 16.1 The Energy Baseline may change if the facility undergoes changes in operating hours, occupancy, energy consuming equipment, or structure. Any change in operating hours, occupancy, energy consuming equipment, or structure that may reasonably be expected to change the energy consumption of the facility by more than ten percent (10%) of the total energy savings proposed by Contractor shall be considered a material change.
- 16.2 **URC** shall notify the Contractor of any change in the facility's equipment or operating conditions that can reasonably be expected to constitute a material change within thirty (30) days of the time that the change becomes known to **URC**. If the notice is not timely made, the modifications allowed in Article 17.3 immediately below shall be retroactive to the time the change commenced.
- 16.3 In the event of a material change the Energy Baseline shall be modified by mutual consent of **URC** and the Contractor. Each party shall bear its own costs in this modification.

17. Insurance

- 17.1 Contractor shall maintain insurance acceptable to **URC** in full force and effect throughout the term of this contract. The policy or policies of insurance maintained by the Contractor shall provide Combined Single Limit Coverage (bodily injury and property damage) in the amount of \$1,000,000 per occurrence.
  - 17.1.1 Insurance shall be in force the first day of the term of this contract.
  - 17.1.2 Each insurance policy required by this contract shall contain the following three clauses:
    - a. This insurance shall not be canceled, limited in scope of coverage or non-renewed until after THIRTY (30) days written notice has been given to the **URC Corporate Engineering Manager/Energy Manager**.
    - b. It is agreed that any insurance maintained by **URC** will apply in excess of, and not contribute with, insurance provided by this policy.

- c. **URC** is added as an insured as respects operations performed for the **URC**
- 17.2 Contractor agrees to deposit with **URC**, on or before the effective date of this contract, certificates of insurance necessary to satisfy **URC** that the insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificates therefor on deposit with **URC** during the entire term of this contract.
- 17.3 **URC** shall retain the right at any time to review the coverage, form, and amount of the insurance required hereby. If, in the opinion of **URC**, the insurance provisions in this contract do not provide adequate protection for **URC**, it may require the Contractor to obtain insurance sufficient in coverage, form, and amount to provide adequate protection. **URC**'s requirements shall be reasonable but shall be designed to assure protection from and against the kind and extent of the risks that exist at the time a change in insurance is required.
- 17.4 **URC** shall notify the Contractor in writing of changes in the insurance requirements; and if the Contractor does not deposit copies of acceptable insurance policies with **URC** incorporating such changes within SIXTY (60) days of receipt of such notice, this contract shall be in default and **URC** shall be entitled to all legal remedies.
- 17.5 The procuring of such required policy or policies of insurance shall not be construed to limit the Contractor's liability hereunder nor to fulfill the indemnification provisions and requirements of this contract. Notwithstanding said policy or policies of insurance, the Contractor shall be obligated for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.
- 17.6 The Contractor shall take out a policy of builder's risk insurance in the amount equivalent to the contract amount, with **URC** names as a loss payee under each policy, covering all work, labor, and materials furnished by such Contractor and its subcontractors against loss by fire, windstorm, lightning, explosion and other perils covered by the Extended Coverage Endorsement, and vandalism and malicious mischief.
  - 17.6.1 The insurance policy shall contain the following:
    - a. This insurance shall not be canceled, limited in scope of coverage, or non-renewed until after THIRTY (30) days written notice has been given to **URC Corporate Engineering Maintenance Manager/Energy Manager**



- b. All rights of subrogation are hereby waived against **URC**, their officers, employees, and agents.
  - c. A standard loss payee clause naming **URC** as loss payee.
- 17.7 Contractor agrees to deposit with the contracting official, on or before the effective date of this contract, a certificate of insurance as evidence that such insurance provisions of this contract have been complied with and to keep such insurance in effect and the certificates thereof on deposit with **URC** during the entire term of this contract.
- 17.8 Contractor shall maintain insurance coverage against the risk of loss, damage, or theft of contractor-owned and installed equipment until title to the equipment passes to **URC** upon expiration of the contract.
- 18. Permits and Licenses
  - 18.1 The Contractor shall procure all permits and licenses, pay all charges and fees and give all notices necessary and incident to the due and lawful prosecution of the work.
  - 18.2 At the time **URC** determines to make award on the project, the Proposer shall possess a valid contractor's license. If the Proposer is a joint venture, all parties to the joint venture must be individually licensed or the joint venture must be licensed. If **URC** determines that the Proposer does not possess a valid license at the time of award, its proposal will not be considered.
- 19. Force Majeure
  - 19.1 The term Force Majeure as used herein means unforeseeable causes beyond the reasonable control of and without the fault or negligence of the party claiming Force Majeure including acts of God, labor disputes, sudden actions of the elements, actions by federal, state, and municipal agencies and actions of legislative, judicial, or regulatory agencies that conflict with the terms of this Contract.
  - 19.2 If either party because of Force Majeure, is unable to perform its obligations under this Contract, then that party shall be excused from whatever performance is affected by the Force Majeure, to the extent it is affected, except as to obligations to pay money, provided that:
    - 19.2.1 The non-performing party, within fourteen (14) days after the commencement of the Force Majeure, gives the other party notice describing the particulars of the occurrence.

19.2.2 The suspension of the performance is of no greater scope and of no longer duration than is required by the Force Majeure.

19.2.3 The non-performing party uses its best efforts to remedy its inability to perform.

19.3 When the non-performing party is able to resume performance of its obligations under this Contract, that party shall give the other party notice to that effect within fifteen (15) calendar days of resumption of performance.

## 20. Events of Default

Each of the following events or conditions shall constitute a default by the Contractor:

20.1 The Contractor fails to produce the guaranteed energy savings in any consecutive twelve-month period during the term of the Contract and fails to pay **URC** the guarantee payment as set forth in the Energy Study Report;

20.2 The standards of service and comfort set forth in the Contract are not provided due to failure of the Contractor to properly design, install, maintain, repair, or adjust the Contractor-furnished equipment, or failure to provide other services as described in the Proposal or Energy Study Report, providing that such failure continues for thirty (30) days after notice to the Contractor requesting that such failure to perform be remedied, or if a remedy cannot be effected in such thirty (30) days, without a good faith effort by the Contractor to perform in that period and diligent subsequent performance;

20.3 Any intentionally false or misleading material representation or warranty furnished by the Contractor in connection with the proposal, the Energy Study Report or this Contract;

20.4 Any material failure by the Contractor to comply with the terms and conditions of this Contract, including breach of any covenant contained herein, providing that such failure continues for thirty (30) days after notice to the Contractor requesting that such failure to perform be remedied, or if a remedy cannot be effected in such thirty (30) days, without a good faith effort by the Contractor to perform in that period and diligent subsequent performance.

## 21. Remedies Upon Default

Upon occurrence of a default by the Contractor, **URC** may, without an election of remedies:

21.1 Exercise all remedies available at law or at equity including bringing action

for recovery of amounts due to **URC** for damages and/or specific performance;

- 21.2 Exercise its option to terminate the Contract by paying seventy percent (70%) of the termination value to the Contractor, without the otherwise required 90 day notice;
- 21.3 Without recourse to legal process, terminate this Contract by delivery of a notice declaring termination, whereupon the Contractor shall remove the Contractor-furnished equipment and reconnect and restore **URC**'s original equipment, if available, or other **URC**-furnished equipment, to the conditions which existed prior to the inception of this Contract, normal wear and tear excepted.

## 22. Representations and Warranties

Each party warrants and represents to the other that:

- 22.1 It has all requisite power, authority, licenses, permits, and franchises, corporate or otherwise, necessary to execute and deliver this Contract and to perform its obligations;
- 22.2 Its execution, delivery, and performance of this Contract has been duly authorized by, and is in accordance with, its organic instruments, and this Contract has been duly executed and delivered for it by the signatories and constitutes its legal valid and binding obligation;
- 22.3 Its execution, delivery, and performance of this Contract will not result in a breach or violation of or constitute a default under any agreement, lease, or instrument to which it is a party or by which it or its properties may be bound to be affected; and
- 22.4 It has received no notice, nor to the best of its knowledge is there pending or threatened any notice, decree, award, permit, or order that would materially adversely affect its ability to perform hereunder.

## 23. Choice of Law

This Contract shall be interpreted, construed, and enforced in all respects in accordance with the laws of the State and any litigation arising therefrom shall be brought and resolved by its courts located in Pasig City, Metro Manila, Philippines.

## 24. Laws to be Observed

The Contractor at all times shall observe and comply with all State and local laws or ordinances, rules, and regulations which in any manner affect those engaged or employed

in the work, the materials used in the work, and the conduct of the work. The Contractor shall also comply with all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the work. Any reference to such laws, ordinances, rules, and regulations shall include any amendments thereto.

25. Notices

All notices to be given by either party to the other shall be in writing and must be either delivered personally or by overnight courier service or mailed by registered or certified mail, return receipt requested, addressed as follows:

To URC: Universal Robina Corporation  
Corporate Engineering and Maintenance Department  
CFC Administration Bldg.  
E. Rodriguez Jr. Avenue  
Bagong Ilog, Pasig City, Metro Manila  
Philippines

To the Contractor:

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26. No Waiver

None of the provisions of this Contract shall be considered waived by either party, except when such waiver is given in writing. The failure of any party, at any time or times, to enforce any right or obligation, with respect to any matter arising in connection with this Contract, shall not constitute a waiver as to future enforcement of that right or obligation of this Contract.

27. Supplemental Agreement

This contract may be modified by a Supplemental Agreement executed by the Contractor and the Contracting Officer.

28. Indemnification

28.1 The Contractor shall defend, indemnify, and hold harmless **URC**, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost and expense, including all attorney's fees, and all claims, suits, and demands therefor, arising out of or resulting from the negligent acts or omissions of the Contractor or the Contractor's employees, officers, agents, or subcontractors under this Agreement. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Agreement.

28.2 The Contractor shall be required to and shall hold **URC** and its duly authorized representatives harmless against all demands, claims, actions, or liabilities arising from the use of any article, process or appliance covered by letters, patents or copyrights used in connection with the contract. Any royalties due or becoming due for use of the article or process shall be paid by the Contractor and shall be deemed to be included within the bid amount and contract price.

28.2.1 The Contractor shall defend, at its own expense, any action brought against **URC**, to the extent that it is based on a claim of infringement and the Contractor will pay those costs and damages finally awarded against **URC** in any such action which are attributable to any such claim, but such defense and payments are conditioned by the following:

- a. That the Contractor shall be notified properly, in writing, by **URC** of any notice of such claim;
- b. That the Contractor shall have sole control of the defense of any action on such claim and all negotiations for its settlement or compromise; and
- c. Should the article, process or appliance become, or in the Contractor's opinion be likely to become, the subject of a claim of infringement, that **URC** shall permit the Contractor, at its own expense, either to procure for **URC** the right of continued use, or replace or modify the same so that they become noninfringing, or remove the article or appliance or discontinue the process.

28.3 **URC** shall be responsible for damages or injury caused by **URC**'s agents, officers, and employees in the course of their employment to the extent that **URC**'s liability for such damage or injury has been determined by a court of otherwise agreed to by **URC**, and **URC** shall pay for such damages and injury to the extent permitted by law.

## 29.0 Minimum Wage Requirements

29.1 The following shall be complied with by the Contractor, Subcontractor, and others who are connected with this job.

29.2 All laborers and mechanics engaged in the performance of this Contract on the job site shall be paid wages not less than the prevailing minimum wage for those kind of work set by the Department of Labor and Employment (DOLE). Notwithstanding the provisions of the original contract, if the

prevailing wage has increased, the rate of pay of laborers and mechanics shall be raised accordingly.

- 29.3 Payroll records for all laborers and mechanics working at the site of the work shall be maintained by the General Contractor and its Subcontractors, if any, during the course of the work and preserved for a period of three years thereafter. Such records shall contain the name and address of each employee, the employee's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. Such records shall be made available for inspection by **URC** representatives who may also interview employees during working hours on the job.
- 29.4 A certified copy of all payrolls shall be submitted weekly to **URC**. The General Contractor shall be responsible for the submission of certified copies of the payrolls of all Subcontractors. The certification shall affirm that the payrolls are correct and complete, that the wages rates contained therein are not less than the applicable rates contained in the wage determination decision of the Director of Labor and Industrial Relations, attached to this contract, and that the classification set forth for each laborer or mechanic conforms with the work performed by the laborer or mechanic.
- 29.5 No laborer or mechanic employed on the job site shall be permitted or required to work on any Saturday, Sunday and legal holiday of the State, or in excess of EIGHT (8) hours on any other day unless the laborer or mechanic receives compensation for all hours worked on any Saturday, Sunday and legal holiday of the State, or in excess of EIGHT (8) hours on any other day at a rate not less than one and one-half times the basic hourly rate of pay. For the purposes of determining overtime compensation under this sub-section, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the Director of Labor and Industrial Relations to be the prevailing basic hourly rate for corresponding classes of laborers and mechanics on projects of similar character in the State.
- 29.6 The Contractor or Subcontractor shall pay all mechanics and laborers employed on the job site unconditionally and not less often than once a week, and without deduction or rebate on any account, except as allowed by law, the full amounts of their wages including overtime, accrued to not more than five working days prior to the time of payment regardless of any contractual relationship that may be alleged to exist between the Contractor or Subcontractor and laborers and mechanics.
- 29.7 **URC** may withhold from the Contractor so much of the accrued payment as may be necessary to pay the laborers and mechanics the difference between the wages required by the contract and the wages received by such laborers and mechanics.

29.8 If **URC** finds that any laborer or mechanic employed on the job site by the Contractor or any Subcontractor has been or is being paid wages at a rate less than the rate required by this contract or the specifications, or has not received full overtime compensation, **URC** may, by written notice to the Contractor, terminate the Contractor's right, or the right of any Subcontractor, to proceed with the work or with the part of the work in which the required wages or overtime compensation have not been paid and may complete such work or part by contract or otherwise, the Contractor and its surety shall be liable to **URC** for any excess costs occasioned thereby.

30. Equal Opportunity

The Contractor agrees that, during the performance of this contract, it will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

31. Disputes

All disputes arising under or related to this contract shall be resolved in accordance with this clause.

- a. A claim by the Contractor shall be made, in writing, and submitted to the Contracting Officer for a written decision.
- b. The Contracting Officer shall make a finding of fact and render a decision within 60 days of the request, provided all the necessary investigations can be made. The findings and decision shall be written and shall be mailed or otherwise furnished to the Contractor.
- c. If the Contracting Officer cannot decide the claim within 60 days, the Contractor will be notified of the date when the decision will be made. The Contracting Officer's decision shall be final.

32. Service of Process

The Contractor may designate a representative within the Philippines duly authorized to accept service of process on its behalf. In the event that the Contractor fails to designate such a representative, or such representative is unavailable, the Contractor consents that service of any notice or process issued against it may be served upon it by filing same with the Office of Commerce and Consumer Affairs or any similar agency in the State where the contractor's office is located. **URC** shall forward by certified mail to the Contractor a copy of any such notice or process served on the Director of Commerce and Consumer Affairs. A copy of such notice must also be sent to the Contractor.

## *Appendix 2*

### *Form of Energy Study Report*

The Contractor shall perform a detailed study of the facility and document its findings in a report including, at a minimum, all of the following information:

1. Cover

The cover page should provide the following information:

- The words "Energy study for (the facility's name)"
- Name(s) and address(es) of the building(s) analyzed in the study
- Name of the firm producing study
- Date

2. Table of Contents

Must be complete with page numbers and descriptive title for each section, table, exhibit, attachment, etc. Tables, charts, attachments, and exhibits should be listed separately by number, title and page number.

3. Page Numbers and Revisions

Each page should be numbered and dated. Should revisions be requested, a listing of original pages and replacement pages should be provided. Each revised page should indicate at bottom right corner "Revised--date."

4. Executive Summary

A short (one or two page) narrative summary of the project, including discussion of the project's energy savings and financing.

a. The following tables must be included:

- 1) A summary of EEM<sup>1</sup> measures for the project (Table 6-1);
- 2) A summary of the project cost (Table 12-2);
- 3) Maintenance services provided by equipment covered, scope, frequency (Table 11-1);
- 4) A cost savings calculation (Table 12-3); and
- 5) A payment schedule (Table 12-4)

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<sup>1</sup> EEM--Energy Efficiency Measure



- b. Savings guarantee. The following statement shall be included:

The Contractor guarantees that in each year of the Term following Substantial Completion, the State will realize energy savings of at least \_\_\_\_\_kWh. At current rates, these energy savings have a value of \_\_\_\_\_Dollars (\$\_\_\_\_\_).

5. Existing Conditions

Document the existing conditions of the facility, including the following information itemized for each building in the facility:

- a. Building physical condition;
- b. Hours of use or occupancy;
- c. Area of conditioned space;
- d. Area of unconditioned space;
- e. Inventory of energy consuming equipment or systems;
- f. Energy consuming equipment operating conditions and loads;
- g. Standards of service and comfort observed (e.g. light levels, ventilation, and temperatures); and
- h. Current practices that unnecessarily increase energy use or impact baseline.

6. Energy Efficiency Measures (EEM)

Provide a narrative description of each proposed cost effective energy efficiency measure (EEM) to be installed including:

- a. The proposed upgrade, replacement, operational change, or maintenance requirement ;
- b. The interface between the proposed EEM and remaining State equipment;
- c. The impact on remaining State equipment (changes in load, run time, etc.);
- d. Any impact on standards of service and comfort; and
- e. Complete Table 6-1 for all measures.
- f. Describe EEMs analyzed but disqualified under cost effectiveness criteria.

General Information

- EEMs should be presented in the order that interactions are considered;
- Energy Management System (EMS) savings must not be

calculated as a percentage of total energy use. Each process controlled by the EMS should be analyzed separately, and savings associated with that process improvement calculated;

- Maintenance measures should be analyzed for savings in the same manner as other EEMs; and
- An EEM summary sheet must be provided for each measure (See Table 6-2).

#### 7. Energy Savings Proposed

Provide a detailed energy analysis for each EEM proposed, documenting the estimated annual energy savings. Document assumptions on current and proposed equipment operating conditions and energy savings calculations.

##### Computer models

When computer modeling is used, the model and each set of results must be properly documented. Minimum documentation required is:

- Name of the program
- Description of the calculations the program performs  
Table showing the model's calculation of the energy consumption for each month of the base year, and actual consumption for those months

#### 8. Facility Support Required

For each EEM proposed, identify any utility interruptions needed and any other facility support that may be required during installation.

#### 9. EEM Installation Schedule

For each EEM provide a proposed implementation schedule. Include the following milestones:

- a. Design completed;
- b. Permits;
- c. Submittals (plans and specifications);
- d. Equipment/Material acquisition;
- e. Mobilization;
- f. Installation;
- g. Clean up;
- h. Startup/Testing;
- i. Final inspection and Notice of Substantial Completion;
- j. Post installation submittals; and
- k. Training.

10. Hazardous Waste Disposal Plan

Provide a descriptive hazardous waste disposal plan for the project.

11. Energy Baseline and Savings Measurement

The Contractor shall establish and document on a site specific basis:

- a. An Energy Baseline, including data, methodology, and variables used to compute it.
- b. The method it will use to measure energy savings and energy cost savings for each energy type after proposed EEMs have been installed.
- c. The method it will use to verify installed EEM compliance with requirements of General Provision Number 16 (Standards of Service and Comfort).
- d. The method of determining energy savings and compliance with Standards of Service and Comfort annually throughout the contract term.
- e. If a computer program or programs will be used to establish the baseline, modify the baseline, or measure savings, furnish the name of the program, the name, address, and phone number of the program developer or supplier, and descriptive literature. The State may require contractor to furnish a properly licensed copy of the program(s) to the State for its use in administering the contract, at no cost to the State.

12. Description of Maintenance Services and Training

Provide a complete description of the maintenance services Contractor will provide, including schedules. Summarize on Table 11-1. Describe any training being provided.

13. Pricing and Project Financing

Contractor shall complete Table 12, Parts 1-4. This includes a payment schedule with termination value for each year of the contract.

14. Calculations

- a. All calculations must be complete and easy to follow. Spreadsheet formats must include a description of the assumptions and calculations.
- b. Units must be indicated and only so many significant digits as the accuracy of the calculation warrants included.
- c. Calculation details and supporting documentation shall be placed in an Appendix.

**Table 6-1**  
**Energy Efficiency Measure Summary**

Company Name: \_\_\_\_\_

Building or Facility Name: \_\_\_\_\_

(Aggregates data from summary sheets)

EEM No.	Energy Efficiency Measure (EEM)	Electricity Savings (kWh/yr)	Peak Demand Reduction (kW)	Fuel Savings (include units)	Energy Cost Savings (\$/yr)	Estimated Measure Cost (\$) from Table 6.2	Estimated Life of Measure (years)	Refer to Page(s)
	TOTALS							

**Table 6.2-x**  
**Summary Sheet for EEM Number \_\_\_\_\_**

Building: \_\_\_\_\_

Name of EEM: \_\_\_\_\_

1. DESCRIPTION (include quantities, types, sizes, locations, etc.)

a. Existing Conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

b. Proposed Conditions with EEM: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

15. NET FIRST YEAR ENERGY SAVINGS

Fuel Type (electric, gas, oil)	Fuel Units (kWh, kW, liters)	First Year Fuel Savings (kWh, , kW, liters)	Unit Cost for the Fuel	Cost Savings
TOTALS				

3. Cost Estimate Summary of Measure

Materials \$ \_\_\_\_\_

Labor \_\_\_\_\_

Contingency \_\_\_\_\_

Other(Specify) \_\_\_\_\_

Total \$ \_\_\_\_\_

4. Expected useful life: \_\_\_\_\_ years.

5. The measure interacts with EEM or MM No(s) \_\_\_\_\_

6. The measure impacts EEM or MM No(s) \_\_\_\_\_

7. Impact on standards of service and comfort.

**Table No. 11-1**  
**Maintenance Services**  
(Contractor-installed, existing facility)

Building (if appropriate): \_\_\_\_\_

MM No.	EQUIPMENT	SCOPE	FREQUENCY	PARTY RESPONSIBLE (Contractor/Facility)

**Table 12-1**  
**Price Formula**  
(Same as Table 7-1 in the RFP)

For each item enter the proposed price as a lump sum and as a percentage of construction cost.

12-1.1 Energy Study Fee	\$_____.	_____
Estimated Cost to Prepare Energy Study (if different from price above)	\$_____.	_____
12-1.2 Design Services	\$_____.	_____ or _____% of Construction Cost
12-1.3 Construction/Project/ Management Services	\$_____.	_____ or _____% of Construction Cost
12-1.4 General Contractor Overhead and Profit		Overhead _____% of Construction Cost Profit _____% of Construction Cost
12-1.5 Commissioning and Initial Training	\$_____.	_____ or _____% of Construction Cost
12-1.6 Interest During Construction	\$_____.	_____ at _____%
12-1.7 Bond Fees	\$_____.	_____ or _____% of Construction Cost
12-1.8 Miscellaneous Fees and Permits	\$_____.	_____ or _____% of Construction Cost
12-1.9 Term Financing Interest Rate		_____ % of Principal (APR)
12-1.10 Monitoring, Verification, and Savings Guarantee	\$_____.	_____ or _____% of Energy Savings
12-1.11 Maintenance Services Overhead and Profit		Overhead _____% of Maintenance Cost Profit _____% of Maintenance Cost